



LEGISLATIVE *Update*

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SEANC Goes into Overtime for Public Services and People in Senate Budget *Crossover Week Bills Survive and Advance*

Crossover week is the NCAA tournament in the legislature – it's all about "survive and advance." Either your team's bill wins a favorable vote in the N.C. House or Senate and you survive and advance to the other side, or you're done for the season. Several bills that SEANC has been advocating for and against made the cut to go on to the next round this week.

But This is No Game:

Saving Public Services and the People Who Provide Them is Priority 1

While bills were flying left and right, SEANC kept its eye on the ball that matters most to state employees, namely protecting public services and the people that provide them. With the Senate budget fast approaching considerable time was spent advocating for Western, Duplin, Bladen, Robeson and Wayne state prisons and State Highway Patrol positions in order to keep our neighborhoods and citizens safe. SEANC appreciates Sen. Jeff Bingham (R-Davidson), a senior budget writer in charge of the Justice and Public Safety budget, who spent considerable time with the lobbying team discussing vital safety jobs.

Technical Foul – State Personnel Bill Advances with 14th Amendment Concerns

This week House lawmakers pressured by intense lobbying from Gov. Pat McCrory approved a bill to rewrite the State Personnel Act and limit state employees' 14th Amendment rights by a vote of 74-40. SEANC calls HB 834, the State Personnel Act rewrite, arguably one big violation of the 14th Amendment of the U.S. Constitution as employees were stripped of their property right to bring grievances to an independent body, the Office of Administrative Hearings. Instead HB 834 gives grievance authority to the political State Personnel Commission.

Grievance Hearings Become Political

SEANC strongly urged lawmakers to maintain the SPA's language which places the Office of Administration Hearings (OAH) in charge of employee grievances. Specifically the bill would remove state employees' right to appeal firings directly to the OAH, which provides a fair and impartial body to judge the merits of grievances. In the OAH, employees get a hearing before an independent, law-licensed Administrative Law Judge, who is subject to the canons of judicial or quasi-judicial conduct, who must follow the rules of civil procedure and rules of evidence, who is required to make findings of fact and conclusions of law and whose decision is reversible by the courts if not supported by substantial evidence.

Instead, employees would appeal to a hearing officer appointed by the politically appointed State Personnel Director. The bill provides no qualifications for the hearing officer and no requirements for applying any of the rules that OAH must follow. The State Personnel Commission (SPC), made up of political appointees of the governor and legislative leaders, then reviews the hearing officers' decision

and either upholds it or reverses it. There is no requirement that the SPC explain its reasons for reversing the recommended decision. The SPC is under the authority of the governor and concerns itself with personnel administration and applying the best methods as evolved in government and industry. Thus the SPC is not independent – it is a commission that places the governor and other political appointees in the position of judging the merit of an employee’s grievance from another political appointee. Finally, under HB 834, the courts would have to uphold the SPC’s decision if there was any competent evidence supporting it, a standard of review so low that virtually no decisions would be overturned.

All Employees At Will?

Another sticking point in the bill is that during reorganizations in state government employees who were reduced in force “not actually or accurately based on their skills and qualifications” could not appeal to be reinstated to the state workforce on this basis. This provision could lead to wholesale firings and a return to the Wild West of state employment where political patronage, nepotism and cronyism rule state government. In lawyer speak this means that a RIF’ed employee would have “no remedy” to grieve their firing.

Bad Bill Becomes Better

Having said what’s wrong with the bill, it’s only fair to say when people have worked with you to come to an agreement and the Office of State Personnel’s Neal Alexander and Chairman Jeff Collins of the House State Personnel Committee agreed to the following changes which SEANC supports.

1. **The SPC will continue to follow fair and open processes** of the Administrative Procedures Act in adopting new or amending current personnel rules.
2. **Reduction-In-Force Priority Maintained**-State employees maintain their RIF priority even when they decline a job at a lower grade than their current or past job.
3. **Just Cause**-Language in the current SPA that pertains to whether an employee may be fired without just cause was maintained

SEANC continues to oppose this bill and will work with the Senate to fix it. State government is different than a private corporation in that the rules of the constitution apply and because employees’ 14th Amendment rights are violated in HB 834 we must ask the Senate to oppose it in its current form.

Employees’ right to grievances and appeals where the rules of evidence and the U.S. Constitution apply can either be rectified by the Senate or by numerous, costly lawsuits brought before the courts.

Winning – House Denies Treasurer Cowell Control of the State Health Plan

On Thursday, the House Rules Committee Chairman Tim Moore (R-Cleveland) led the charge to maintain the independence of the State Health Plan Board of Trustees and their ability to oversee the State Health Plan by stripping out language from HB 232 that would have placed state Treasurer Janet Cowell firmly in control of the health plan.

During the Rules Committee hearing, Moore offered substitute language which stripped out the power grab Cowell had requested from the legislature to adopt, implement and administer health management programs and wellness programs for the State Health Plan without the consent of the State Health Plan Board of Trustees.



SEANC Legislative Affairs Director Ardis Watkins and Rep. Tim Moore (R-Cleveland)

SEANC lobbyists worked with House members and explained SEANC members concerns that HB 232 would place Cowell firmly in control of the SHP and would represent a governance shift in the SHP.

Currently, Treasurer Cowell serves on the SHP Board as an ex-officio member where she may offer proposals to the board, but is not authorized to adopt and administer the SHP on her own.

Without the controversial language, HB 232 sailed to unanimous passage by a vote of 113-0.

SEANC fully expects Treasurer Cowell to try to reinsert her power grab language back into the bill when the Senate considers it. SEANC lobbyists will oppose this power grab when it comes up next.

Rain Out – Hospitals CON lawmakers into a study bill

House lawmakers this week converted House Bill 177 to a study bill to examine free market competition between physicians to compete with hospitals by opening same-day surgery centers. The measure was changed after legions of hospital lobbyists descended on the General Assembly. SEANC will follow the work of the study committee and offer to testify in support of saving the state and taxpayers \$50 million per biennium in the State Health Plan.

The SEANC Legislative Update is published when the N.C. General Assembly is in session by SEANC's Legislative Affairs Department. For more information, contact Legislative Affairs Director Ardis Watkins at awatkins@seanc.org.